

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

In re:

Docket to Determine the Compliance
of BellSouth Telecommunications, Inc.'s
Operations Support Systems with State
and Federal Regulations

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OFFICE OF THE
EXECUTIVE SECRETARY
Docket No. 01-00362

**PROPOSED REVISIONS TO PHASE II ISSUES LIST
OF AT&T COMMUNICATIONS OF THE SOUTH CENTRAL STATES, INC.,
TCG MIDSOUTH, INC.,
AND SOUTHEASTERN COMPETITIVE CARRIERS ASSOCIATION**

As requested by the Prehearing Officer at the Prehearing Conference on January 8, 2002, AT&T Communications of the South Central States, Inc. and TCG MidSouth, Inc. (collectively "AT&T") and the Southeastern Competitive Carriers Association ("SECCA") hereby submit to the Tennessee Regulatory Authority ("TRA" or "Authority") proposed revisions to the Phase II Issues List set forth in the Authority's Order Establishing Issues and Procedural Schedule dated September 13, 2001 (the "September 13th Order").

We continue to believe that the issues set forth in the Authority's September 13th Order are the appropriate issues for Phase II of this docket. At the Pre-Hearing Conference on September 6, 2001, the parties discussed the issues list at length and proposed several changes. The parties, moreover, asserted no objections to any of these issues at that time. After considering the positions expressed by all interested parties, the Pre-Hearing Officer issued the September 13th Order. Based on the issues set forth in that Order, the parties proceeded with the contested case. We submitted discovery requests based on those issues. We conducted depositions based on those issues. We conducted the Phase I hearing based on those issues. Any significant deviation from the issues set forth in the September 13th Order at this point in the

docket could adversely impact the integrity of this proceeding since the parties have prosecuted their cases thus far based the identified issues. Accordingly, the Authority should stay the course unless serious and compelling reasons dictate otherwise.

No serious and compelling reasons exist that warrant any material revisions to the Phase II Issues List. The stated purpose of this docket has not changed. The Authority is still seeking "to determine whether existing data or test results derived from OSS testing in other states is reliable and applicable to Tennessee and, in those instances where reliance on such testing is inappropriate, to conduct necessary testing." Phase I of this docket focused on the extent to which out-of-state data and test results are applicable to Tennessee. The focus of Phase II is twofold. First, Phase II examines the reliability of data and test results deemed applicable by the Authority. In addition, Phase II seeks recommendations the scope and structure of any third-party test that the Authority may require in Tennessee to obtain the necessary information to evaluate the compliance of BellSouth's OSS with state and federal law. The Phase II issues set forth in the September 13th Order provide the Authority with a procedural structure to accomplish the goals of Phase II. No substantive changes to the Phase II Issues List are necessary.

At most, the Phase II Issues should be clarified to more accurately reflect the Authority's intent. For example, we believe that the new issue proposed by the Authority at the January 8th conference is appropriate because it seeks to clarify the meaning of "measurable commercial usage" as that phrase is used in Issue Nos. 1 and 2. Indeed, the Authority has previously asked the parties to define "commercial usage" at earlier pre-hearing conferences. In addition, we recommend that the Authority adopt a few minor clarifications as set forth below. We believe

these clarifications also reflect the Authority's intent as expressed at various pre-hearing conferences without changing the substance of the Phase II issues. We have redlined the original Phase II issues to reflect our recommendations. Recommended additions are highlighted in **bold, italicized** font, and recommended deletions are struck through.

Issue Nos. 1, 2, & 3

We recommend several revisions to clarify Issue Nos. 1, 2, and 3, but these revisions do not change the substance of those issues. We added the phrase "and reliable" to each issue to emphasize that commercial usage data and test results must be reliable. Also, we added references in each issue to Tennessee to make clear that the issues focus on Tennessee operations. Specifically, we recommend the following revisions:

1. For those processes, systems or procedures deemed by the Authority to be Tennessee specific, does measurable **and reliable** commercial usage data, such as performance data ordered by the Authority, exist in sufficient volumes to allow the Authority to determine if the process, system or procedure **in Tennessee** is being provided in a nondiscriminatory manner?
2. For those processes, systems or procedures identified by the Authority as the same as those used to support BellSouth's Georgia or Florida wholesale operations, does measurable **and reliable** commercial usage data, such as performance data ordered by the Authority, exist in sufficient volumes that will allow the Authority to determine if the process, system or procedure **in Tennessee** is being provided in a nondiscriminatory manner?

3. For those processes, systems or procedures identified by the Authority as: (1) the same as those used in to support Georgia or Florida wholesale operations; and (2) tested or scheduled for testing in either Georgia or Florida, ~~is indicate whether the~~ Florida and/or Georgia testing of such process ~~still timely, and relevant,~~ *and reliable for determining compliance with applicable Tennessee and federal law?*

Issue Nos. 4 & 5

We do not propose any revisions to Issue Nos. 4 & 5.

Issue No. 6

We recommend several revisions to clarify Issue No. 6, but these revisions do not change the substance of this issue. We added the phrase "and performance" in the first sentence to make clear that scope of testing would include both availability and performance. We also added the phrase "in Tennessee" to make clear that the relevant OSS availability and performance are those supporting operations in Tennessee. In addition, we added the phrase "and regulations" to clarify that both statutes and regulations apply. In the second sentence, we replaced the reference to Florida with a reference to Tennessee, and added the phrase "complies with applicable Tennessee and federal law" to correspond to the first sentence. Specifically, we recommend the following revisions:

6. Identify the processes, systems, or procedures that should be included in a master test plan designed to evaluate the availability *and performance* of OSS ~~provisioning~~ *in Tennessee* for both residential and business service as contemplated under 47 U.S.C. § 271(c)(1)(A) of the Telecommunications Act of

1996, Tenn. Code Ann. § 65-4-123 and other applicable state and federal statutes *and regulations*. ~~but were not included in the Florida master test plan.~~ Explain *how* ~~why such processes were not included in the Florida test and whether or not~~ testing of such process[es] *in Tennessee* would be beneficial in arriving at a final decision on *whether* ~~the adequacy of BellSouth's OSS in Florida~~ *complies with applicable Tennessee and federal law.*

Issue Nos. 7 & 8

We do not propose any revisions to Issue Nos. 7 & 8.

Issue No. 9 (New Issue Proposed by the Authority)

At the January 8th Prehearing Conference, the Authority proposed adding a new issue to Phase II related to the definition of "measurable commercial usage." We believe that the goal of this new issue is to clarify the meaning of that term as it is used in Issue Nos. 1 and 2 and, therefore, does not represent a material deviation from the existing Phase II issues. Accordingly, we agree that including such an issue in Phase II of this docket would be appropriate. However, we recommend revising the proposed issue as follows:

9. What definition(s) of "measurable commercial usage *data*" should the Authority use for the purposes of Docket No. 01-00362? *To what extent, if any, should "measurable commercial usage data" be: (a) Tennessee-specific; (b) reflective of TRA-approved performance measurements and standards; (c) statistically significant; (d) disaggregated; (e) current; (f) reliable; or (g) any other relevant characteristic? If "measurable commercial usage" data are to be used in lieu of*

~~third-party testing, should such data be: (a) Tennessee-specific; and/or; (b) somehow disaggregated by service or process; and/or; (c) from any particular time period?~~

The goal of the recommended revisions is to clarify the issue rather than make any substantive changes. We have added the word "data" in the first sentence to make clear that the focus of this issue is performance data resulting from commercial usage rather than the just the existence of commercial transactions. In addition, we have revised the second sentence to remove any potential implication that: (a) third-party test cannot or should not be used in conjunction with "measurable commercial usage data" to evaluate compliance with state and federal law; or (b) the three characteristics identified by the Authority were the only potentially relevant characteristics of "measurable commercial usage data."

With respect to whether third-party tests can or should be used in conjunction with measurable commercial usage data, the FCC has examined such evidence in conjunction with each other in several 271 applications (e.g., New York, Texas, Massachusetts). Indeed, proper third-party testing can provide useful evidence that can, among other things, confirm or contradict the reliability of measurable commercial usage data, and provide a basis for evaluating performance areas that cannot be easily measured. With respect to the relevant characteristics of "measurable commercial usage data," we believe the characteristics that we have identified (including the catch-all characteristics), plus the characteristics identified by the Authority, will remove any implicit limitation on the scope of the Authority's definition of "measurable commercial usage data."

In sum, the Authority should not change the substance of the existing Phase II Issues List because there is no serious and compelling reason to do so. The Phase II Issues List, either as currently written or with our recommended revisions, are properly structured to achieve the express goals of the Authority. Moreover, making any substantive changes to the issues set forth in the September 13th Order at this point in the docket could create adversely impact the integrity of this proceeding because the parties have relied on those stated issues in conducting this contested case. Accordingly, we respectfully request that the Authority adopt our recommendations (in whole or in part) or, in the alternative, maintain the existing Phase II Issues List.

Respectfully submitted,

By: 

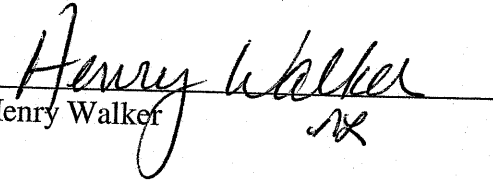
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been forwarded via fax or hand delivery and U.S. mail to the following on this the 10th day of January, 2002.

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